

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR 6789

DATE COMPLAINT FILED: March 5, 2014
DATE OF NOTIFICATION: March 11, 2014
DATE OF LAST RESPONSE: April 10, 2014
DATE ACTIVATED: September 29, 2014

ELECTION CYCLE: 2014
EXPIRATION OF SOL: October 21, 2018
(earliest) – January 30, 2019 (latest)

COMPLAINANTS:

Campaign Legal Center
Democracy 21

RESPONDENTS:

Special Operations for America and Kaarlo Hietala
in his official capacity as treasurer
Zinke for Congress and Lorna Kuney in her official
capacity as treasurer
Ryan K. Zinke

MUR 6852

DATE COMPLAINT FILED: July 3, 2014
DATE OF NOTIFICATION: July 9, 2014
DATE OF LAST RESPONSE: September 9, 2014
DATE ACTIVATED: September 29, 2014

ELECTION CYCLE: 2014
EXPIRATION OF SOL: October 21, 2018
(earliest) - January 30, 2019 (latest)

COMPLAINANT:

Montana Democrats

RESPONDENTS:

Special Operations for America and Kaarlo Hietala
in his official capacity as treasurer
Zinke for Congress and Lorna Kuney in her official
capacity as treasurer
Ryan K. Zinke
Continental Divide, LLC
Battle Plan Strategies

**RELEVANT STATUTES
and REGULATIONS:**

52 U.S.C. § 30102(e)(1)
52 U.S.C. § 30104(b)
52 U.S.C. § 30116(a)

52 U.S.C. § 30116(f)

52 U.S.C. § 30118(a)

52 U.S.C. § 30125(e)

11 C.F.R. § 100.5(g)

11 C.F.R. § 109.21

11 C.F.R. § 109.23

INTERNAL REPORTS CHECKED: Disclosure Reports

OTHER AGENCIES CHECKED: Montana Secretary of State
Montana Commissioner of Political Practices
U.S. House of Representatives Financial Disclosure
Database

I. INTRODUCTION

These matters concern Ryan K. Zinke, a candidate for Montana At-Large Representative during the 2014 election cycle,¹ and Special Operations for America ("SOFA"), an independent expenditure-only political committee Zinke founded in 2012 and operated until shortly before announcing his candidacy in October 2013. In MUR 6789, the Complaint alleges that SOFA disseminated two television advertisements that republished campaign photographs obtained from Zinke and Zinke for Congress, his principal campaign committee, resulting in a prohibited and excessive in-kind contribution and, further, that the ads were coordinated with Zinke and Zinke for Congress.

In MUR 6852, the Complaint alleges that SOFA and Zinke's relationship caused all of SOFA's communications supporting Zinke to be coordinated with Zinke.² In support of the allegations, the Complaint claims that SOFA paid for Zinke's exploratory activity, SOFA and

¹ Zinke won the November 4, 2014, general election and re-election in 2016. He is currently the Secretary of the Department of the Interior.

² The Complaint thus concludes that, "the Commission must determine that SOFA is affiliated with Mr. Zinke's campaign committee." MUR 6852 Compl. at 3.

1 Zinke shared a common vendor close in time, SOFA solicited contributions specifically to
2 support Zinke, and SOFA made large payments to Zinke's family-controlled corporation,
3 Continental Divide, and to SOFA's treasurer through his sole proprietorship, Battle Plan
4 Strategies. The MUR 6852 Complaint finally alleges that the two committees may be affiliated,
5 and that Zinke may have filed his Statement of Candidacy late.

6 Zinke and Zinke for Congress in a joint response ("Zinke Resp.") and SOFA each deny
7 the republication, coordination, and affiliation allegations, and Zinke asserts that he timely filed
8 his Statement of Candidacy.

9 The available information demonstrates that SOFA republished Zinke campaign
10 photographs in two advertisements, and raises a sufficient inference that SOFA coordinated its
11 communications with Zinke to investigate the allegation. Accordingly, we recommend that the
12 Commission find reason to believe that SOFA violated 52 U.S.C. §§ 30116(a)(1), 30118(a), and
13 30104(b); Zinke for Congress violated 52 U.S.C. §§ 30118(a), 30116(f), and 30104(b); and Ryan
14 Zinke violated 52 U.S.C. §§ 30118(a) and 30116(f). We also recommend that the Commission
15 find no reason to believe that Battle Plan Strategies or Continental Divide, LLC, violated the
16 Federal Election Campaign Act of 1971, as amended (the "Act"). We finally recommend that
17 the Commission take no action at this time as to allegations that SOFA paid for Zinke's
18 exploratory activities and that Zinke filed his Statement of Candidacy late.

19 II. FACTS

20 A. SOFA's Beginnings

21 On June 15, 2012, SOFA filed a Form 1 Statement of Organization with the Commission,
22 identifying itself as a multi-candidate committee, and a letter stating its intention to make only
23 independent expenditures and not make any contribution to any candidate or candidate

1 committee.³ SOFA was founded by Zinke, a Montana state senator at the time and Navy SEAL.⁴
2 SOFA's address in Whitefish, Montana, was located on property owned by Zinke and close in
3 proximity to Zinke's residence.⁵ SOFA's stated purpose was to support Mitt Romney and defeat
4 President Obama in the 2012 election, and represent a military point of view as espoused by
5 SOFA Chairman Zinke.⁶ In the 2012 election cycle, SOFA received \$182,378 in contributions
6 and spent \$179,840, but made only one \$7,000 independent expenditure opposing Obama.
7 SOFA's contributions primarily come from individual contributors, but it has accepted
8 contributions in excess of the Act's individual contribution limits and from corporations.

9 **B. Post-2012 Election**

10 After the 2012 election, SOFA continued to raise funds and issued several press releases,
11 most of which quoted Zinke.⁷ As early as March 27, 2013, SOFA's website homepage changed
12 to focus more on Zinke than it had previously.⁸ Around the same time, news reports began to

³ See <http://docquery.fec.gov/pdf/536/12030822536/12030822536.pdf>.

⁴ See <https://www.so4a.org/about/>. On August 27, 2015, SOFA filed an amended Statement of Organization to change its website address from www.soforamerica.org to www.so4a.org. Some documents cited in this Report are not available on the new website link. Paper copies are available and will be placed in the Voting Ballot Matters ("VBM") folder.

⁵ See Zinke's Form D-1 (Business Disclosure Statement), State of Montana, Political Practices Office (Jan. 18, 2012) (showing Zinke's ownership of 336 W. 2nd Street). See also http://clerk.house.gov/public_disc/financial-pdfs/2014/8214247.pdf at 4 (Zinke 2013 House Candidate Financial Disclosure Statement) (showing receipt of partnership income from 336 W. 2nd Street). Zinke's residence is located at 409 W. 2nd Street. See Form D-1.

⁶ See <http://www.soforamerica.org/2012/07/18/montana-state-senator-and-former-commander-at-seal-team-six-announces-organization-and-partnerships-to-take-back-america-in-2012-2/> (VBM).

⁷ For example, in a March 2013 press releasing announcing SOFA's support for former SEAL Gabriel Gomez, a Senate candidate in a Massachusetts special election, Zinke stated, "SEAL's [*sic*] and other Special Operators are proven leaders in solving the most difficult problems around the globe." See <http://www.soforamerica.org/2013/03/04/former-seal-gabriel-gomezs-u-s-senate-announcement-statement-from-chairman-special-operations-for-america-usn-cdr-at-seal-team-six-ret> (VBM).

⁸ Compare Attach. 1 (Feb. 24, 2013, SOFA homepage screenshot) with Attach. 2 (Mar. 27, 2013, screenshot).

1 emerge about Zinke considering a run for federal office.⁹ On May 26, 2013, SOFA issued a
2 press release describing an interview Zinke gave where he said he was seriously considering the
3 Montana Senate race.¹⁰

4 In its 2013 Mid-Year Report filed with the Commission, SOFA disclosed that it had
5 raised just over \$400,000. A SOFA press release stated:

6 Special Operations for America, a National PAC Chaired by Montana resident
7 Ryan Zinke is due to report a fundraising haul of \$400,000 plus. ... 'The public is
8 gravitating to the idea of electing officials with real leadership qualities ... Our
9 mission is pretty simple – recruit, support and elect real American
10 leaders.' [quoting Zinke] ... Demand for Zinke at events continues to increase
11 rapidly. Chairman Zinke has had the recent privilege of speaking at events in
12 Arizona, Texas, Montana and Utah. This is in addition to his media appearances
13 on Fox News, CNN and the Military Appreciation Channel (Zinke's Radio
14 Show). ... Several additional events in Denver, Santa Barbara, Dallas, New
15 Orleans, Washington DC and San Diego are currently being considered for
16 Chairman Zinke's participation.¹¹

17
18 Zinke and his wife hosted a fundraiser for SOFA at their home on August 1, 2013. The
19 invitation features a large photograph of Zinke with the U.S. Capitol Building in the
20 background.¹² The invitation reads, "Please Join Us for a special evening with Commander Z"
21 and contains the catchphrase, "Trust, Leadership & American Exceptionalism."¹³ On July 18,
22 2013, SOFA posted the invitation on its website and on Facebook.¹⁴

⁹ See, e.g., <http://mtstreetfighter.com/ryan-zinke-discusses-a-possible-run-against-baucus> (Jan. 22, 2013) (VBM); Kerry Eggers, PORTLAND TRIBUNE, *Opposites Meet in Middle* (May 9, 2013) (VBM).

¹⁰ See <https://www.so4a.org/ryan-zinke-talks-veteran-leadership-and-future-public-service/>.

¹¹ <https://www.so4a.org/sofa-posts-solid-fundraising/>.

¹² See Attach. 3.

¹³ See *id.*

¹⁴ See Attach. 4 and 5.

1 On August 19, 2013, SOFA posted on Facebook a headshot photograph of Zinke with
2 large-print text: "MONTANA is the battleground to take back America. Join the BATTLE.
3 SOFA Chairman Ryan Zinke."¹⁵ The text urged viewers to "like and share" and make a
4 donation via a hyperlink.¹⁶

5 While Zinke was chairman of SOFA, SOFA's vendors included Continental Divide,
6 LLC, a Zinke family-owned business.¹⁷ From SOFA's inception in 2012 until August 5, 2013,
7 SOFA paid Continental Divide \$39,637 for fundraising consulting, reimbursements for Zinke's
8 travel and other expenses, and strategy consulting. Also from SOFA's inception until November
9 2014, SOFA paid Battle Plan Strategies, the sole proprietorship owned by Scott Hommel,
10 SOFA's former treasurer,¹⁸ \$275,281 for administrative and strategy consulting.

11 **C. SOFA's Activities After Zinke's Resignation as Chairman**

12 Zinke resigned as SOFA's chairman on September 30, 2013.¹⁹ On October 11, SOFA
13 began a "Draft Zinke" campaign on Facebook and Twitter, stating, "We need YOUR help," with
14 links to donation screens that showed "Draft Zinke for U.S. Congress, Made in Montana" and
15 "We need Leadership in Washington. Let's #DraftZinke."²⁰ On October 14, 2013, Zinke
16 launched www.ryanzinke.com and announced the formation of an exploratory committee, which

¹⁵ See Attach. 6.

¹⁶ See *id.*

¹⁷ See Continental Divide, Dun & Bradstreet (Jan. 15, 2015).

¹⁸ See Battle Plan Strategies Resp. at 1.

¹⁹ See <https://www.so4a.org/a-message-from-ryan-zinke-monday-september-30/> (linking to Facebook page at <https://www.facebook.com/SpecialOperationsForAmerica/posts/364132703719962>).

²⁰ See Attach. 7.

1 he posted on the Zinke for Congress Exploratory Committee's new Facebook page.²¹ Zinke's
2 personal Facebook page shared the exploratory committee's Facebook posting and stated, "Join
3 the Battle." SOFA's Facebook page carried the exploratory committee announcement the next
4 day.²² SOFA continued to post on Twitter and Facebook links to Zinke's exploratory committee
5 website and made fundraising appeals: "Help us support former Navy SEAL and former SOFA
6 Chairman Ryan Zinke in the fight to take back America. It all starts in Montana."²³

7 From October 18, 2013, until Zinke's candidacy announcement on October 21, SOFA's
8 Facebook and Twitter pages, along with Zinke's campaign Facebook page, advised followers of
9 a forthcoming "important announcement."²⁴ SOFA's Facebook page provided a link to view the
10 announcement live.²⁵ On October 21, 2013, Zinke announced his candidacy and filed his
11 Statement of Candidacy with the Commission. On the same day, SOFA disseminated its first
12 independent expenditure on Zinke's behalf – a \$127.58 Google ad.²⁶

13 SOFA continued to raise funds in Zinke's name. In an October 22, 2013, Facebook post
14 that SOFA linked to its website, stating "SOFA Founder Ryan Zinke is Running for Congress!"
15 and "Donate to SOFA and help us send Ryan and leaders like him to Washington."²⁷ In another
16 fundraising appeal, SOFA offered contributors who gave \$50 or more a "limited edition Special

²¹ See <https://www.so4a.org/icymi-former-chairman-zinke-forms-exploratory-committee/> (linking to Facebook page at <https://www.facebook.com/SpecialOperationsForAmerica/posts/370816809718218>).

²² See *id.*

²³ See Attach. 8a (SOFA Twitter postings) and Attach. 8b (SOFA Facebook postings).

²⁴ See *id.*

²⁵ See *id.*

²⁶ See <http://docquery.fec.gov/pdf/097/15951209097/15951209097.pdf> at 460 (SOFA Amended 2013 Year End Report).

²⁷ See Attach 9.

1 Operations for America Ryan Zinke bronze challenge coin.” One side of the coin featured a
2 color portrait of Zinke in front of an American flag and the other contained the slogan “Bow to
3 Nobody.”²⁸ The solicitation states, “Ryan Zinke is running for Congress because America needs
4 him. He has earned our support. Please join us in helping to support his efforts.”²⁹ At least one
5 version of the challenge coin solicitation suggested a donation range from \$35 to \$10,000.³⁰

6 On October 23, 2013, SOFA named a new chairman, Gary Stubblefield.³¹ And, after
7 news stories appeared in early November 2013 about Zinke and SOFA’s relationship,³²
8 including the proximity of SOFA to Zinke’s residence,³³ on November 12, 2013, SOFA
9 amended its Statement of Organization disclosing a new address in Malta, New York, the
10 location of then-SOFA treasurer and Battle Plan Strategies owner Scott Hommel.

11 SOFA continued to focus its activities exclusively on Zinke after he declared his
12 candidacy. From the date of Zinke’s October 21, 2013, candidacy announcement to February 5,
13 2014, SOFA spent \$70,039.27 on independent expenditures supporting Zinke, including two
14 television ads disseminated in Montana in January 2014 at a cost of \$34,576.³⁴ It was not until
15 February 3, 2014, that SOFA made its first independent expenditures in support of other

²⁸ See MUR 6852 Compl., Exh. 2; *see also* Attach. 10.

²⁹ See Attach. 10.

³⁰ See *id.*

³¹ See <https://www.so4a.org/special-operations-for-america-announces-new-chairman/>.

³² See, e.g., <http://www.motherjones.com/politics/2013/10/ryan-zinke-stephen-colbert-super-pac-sofa>.

³³ See, e.g., http://missoulain.com/news/state-and-regional/congressional-candidate-zinke-distances-himself-from-pac-he-started/article_95913d2a-4489-11e3-9d41-001a4bcf887a.html.

³⁴ See SOFA 2014 Amended April Quarterly Report at 110, 112 (Apr. 21, 2015) (disclosing a total of \$34,576 in independent expenditures made on January 3, 2014 for media production and placement fees for the two advertisements). See also Attach. 11.

1 candidates.³⁵ SOFA further supported Zinke with independent expenditures between April 2 and
2 May 23, 2014, totaling \$122,500 in advance of Zinke's June 3, 2014, primary election. In total,
3 SOFA spent \$192,539.27 on independent expenditures in the 2014 election cycle supporting
4 Zinke.³⁶

5 **D. Common Vendor**

6 As noted in the MUR 6852 Complaint, Zinke for Congress and SOFA each made
7 payments to Lester Cooper around the same time, including a payment by SOFA after Zinke
8 announced his candidacy.³⁷ The two committees disclosed the following payments to Cooper:

PAYOR	PURPOSE	DATE OF DISBURSEMENT	AMOUNT
SOFA	Research Consulting	8/15/2013	\$1,000.00
SOFA	Research Consulting	11/04/2013	\$3,030.45
Zinke for Congress	Research Fees	11/21/2013	\$1,412.75

9
10 **III. LEGAL ANALYSIS**

11
12 **A. Republication of Campaign Materials**

13 In MUR 6789, the Complainants allege that SOFA made a prohibited and excessive in-
14 kind contribution to Zinke by republishing campaign photographs of Zinke in two television
15 advertisements that began to run in Montana in early January 2014.³⁸ Complainants allege that
16 the photographs, while similar to photographs available publicly, are not available publicly, and

³⁵ In total for the 2014 election cycle, SOFA spent \$458,028 on independent expenditures, including \$265,453 on independent expenditures supporting six other candidates. Spending for Zinke alone accounted for 42% of SOFA's independent expenditures.

³⁶ See Attach. 11. This total includes one independent expenditure SOFA disseminated opposing Zinke's primary election opponent. After May 23, 2014, SOFA only supported other candidates.

³⁷ Zinke for Congress and SOFA disclosure reports show that besides Cooper, there were at least four other vendors providing communications, campaign consulting, and fundraising consulting services that were paid by SOFA while Zinke was Chairman and then paid by Zinke for Congress after Zinke declared his candidacy.

³⁸ MUR 6789 Compl. at 5-7, 9. SOFA states that the commercials aired from January 8 through March 3, 2014. MUR 6789 SOFA Resp. at 1 (Mar. 25, 2014).

1 thus Zinke and SOFA coordinated the photo shoot and Zinke must have given the photographs to
2 SOFA.³⁹ They further allege that SOFA failed to disclose the making of the alleged
3 contribution.⁴⁰

4 Under the Act, the “financing by any person of the dissemination, distribution, or
5 republication, in whole or *in part*, of any broadcast or any written, graphic, or other form of
6 campaign materials prepared by the candidate, his campaign committees, or their authorized
7 agents shall be considered an expenditure.”⁴¹ The republication of campaign materials prepared
8 by a candidate’s authorized committee is also “considered a[n in-kind] contribution for the
9 purposes of contribution limitations and reporting responsibilities of the person making the
10 expenditure,”⁴² because the person financing the republication “has provided something of value
11 to the candidate [or] authorized committee.”⁴³ The candidate who prepared the campaign
12 material does not receive or accept an in-kind contribution, and is not required to report an
13 expenditure, unless the dissemination, distribution, or republication of campaign materials is a
14 coordinated communication.⁴⁴

³⁹ MUR 6789 Compl. at 7.

⁴⁰ *Id.* at 13.

⁴¹ 52 U.S.C. § 30116(a)(7)(B)(iii) (emphasis added). *See also* 11 C.F.R. § 109.23(a).

⁴² 11 C.F.R. § 109.23(a).

⁴³ *See* Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 442 (Jan. 3, 2003) (explanation and justification) (“2003 Coordination E&J”). As the Commission there explained, “Congress has addressed republication of campaign material through [52 U.S.C. § 30116(a)(7)(B)(iii)] in a context where the candidate/author generally views the republication of his or her campaign materials, *even in part*, as a benefit” and can be reasonably construed only as for the purpose of influencing an election.” *Id.* at 443 (emphasis added); *see also* Coordinated Communications, 71 Fed. Reg. 33,190, 33,191 (June 8, 2006) (explanation and justification) (“2006 Coordination E&J”) (communications “that disseminate, distribute, or republish campaign materials, no matter when such communications are made, can be reasonably construed only as for the purpose of influencing an election.”).

⁴⁴ 11 C.F.R. § 109.23(a).

1 The Commission created an exemption for grassroots activity on the internet that allows
2 individuals to republish campaign materials available on the internet without making a
3 contribution or expenditure.⁴⁵ The exception, however, does not exempt from the definition of
4 "contribution" any "public communication" that involves the republication of such materials.⁴⁶
5 For example, a contribution would result "if an individual downloaded a campaign poster from
6 the Internet and then paid to have the poster appear as an advertisement in the New York
7 Times."⁴⁷

8 The two television ads at issue are nearly identical 15-second TV ads aired in Montana
9 beginning in January 2014.⁴⁸ The first ad begins with the image of an internet search for "best
10 candidate for Montana" being typed out in an internet search engine; the terms "Ryan Zinke,
11 Navy Seal, Strong Candidate for Congress and Ryan Zinke for Congress" appear in a drop down
12 list below the search. This image is followed by a portrait-style photograph of Zinke that
13 appears for approximately one second, followed by darkened footage of soldiers in combat gear
14 running in a couple of different scenes. Then, about halfway through the ad, a portrait-style
15 photograph of Zinke with eight family members superimposed over a map of Montana and a
16 mountain scene appears on the screen and remains in place until the end.⁴⁹ The voiceover during

⁴⁵ See 11 C.F.R. §§ 100.94, 100.155 (uncompensated internet activity does not result in a contribution or expenditure); Internet Communications, 71 Fed. Reg. 18,589, 18,604 (Apr. 12, 2006) (explanation and justification).

⁴⁶ A "public communication" is defined as a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank, or any other form of general political advertising. 11 C.F.R. § 100.26.

⁴⁷ See 71 Fed. Reg. at 18,604.

⁴⁸ The MUR 6789 Complaint and Zinke Response provided links to the ads on SOFA's YouTube channel. The videos now are marked private and are no longer available on YouTube, but they may be viewed in the VBM folder for this matter.

⁴⁹ See Attach. 12 (still photo of ad at halfway point); see also MUR 6789 SOFA Supp. Resp. at 2.

1 the ad states, "For Congress, one candidate stands out: Ryan Zinke. Navy SEAL, a third-
2 generation Montanan. Ryan Zinke, a strong leader for Montana." The second ad is identical
3 except "two bronze stars for combat in Iraq" replaces "third-generation Montanan" in the
4 voiceover. Both ads expressly advocate for Zinke's election by linking his candidacy with the
5 phrase "For Congress."⁵⁰

6 It is apparent that the photographs used by SOFA in its two television ads are "campaign
7 materials" prepared by the Zinke campaign. Zinke's campaign Facebook page contained many
8 photographs identical or nearly identical to the photographs SOFA used in its ads, and SOFA
9 acknowledges that it obtained the photographs it used for its ads from Zinke's personal Facebook
10 page, which was publicly available.⁵¹ Zinke for Congress's disclosure reports also show
11 payments to Scott Wilson Photography ("SWP") in November 2013. On January 6, 2014,
12 SWP's publicly available Facebook page posted a series of photographs in a message titled,
13 "Zinke Family!"⁵² The photographs include family portrait photographs identical or virtually
14 identical to the family portrait photos in the ads, all apparently taken in the same photo shoot.⁵³
15 The text states, "I've been taking some campaign photos for Ryan Zinke, a local Montanan

⁵⁰ See 11 C.F.R. § 100.22(a).

⁵¹ MUR 6789 SOFA Resp. at 1 and Supp. Resp. at 1 (Mar. 31, 2014). SOFA does not state when it retrieved Zinke's photographs from Zinke's Facebook page but notes that the photographs appear to have been posted on Zinke's personal Facebook page on December 31, 2013. SOFA Resp. at 1. Zinke, in his response, points out that the photographs were publicly available from his personal Facebook page, and provides links to those pages, *see* MUR 6789 Zinke Resp. at 4 (Apr. 4, 2014), and that neither it nor any of its agents provided the photographs to SOFA or communicated with SOFA regarding the advertisements at issue. *Id.* at 3.

⁵² See Attach. 14.

⁵³ See *id.*

1 running for [C]ongress”⁵⁴ Based on this information, it is clear that the photographs used by
2 SOFA were Zinke campaign materials.

3 SOFA asserts, however, that its use of the photographs does not result in an in-kind
4 contribution to Zinke because the photographs were merely used as background images while the
5 text, graphics, and narration of the ads conveyed SOFA’s own, independent message.⁵⁵

6 Similarly, Zinke asserts that the photographs in the ads constitute brief snips of material as part
7 of SOFA’s own views.⁵⁶ However, the candidate headshot and family portrait are campaign
8 materials that were displayed for half of the ads’ duration, with both photographs covering
9 almost the entire screen during that time, thus making their inclusion integral and not
10 “incidental” or a “brief snip”⁵⁷ as asserted by Respondents. By this argument, virtually any
11 subsequent republication of campaign material by a third party may constitute that republisher’s
12 “own message.” Indeed, the Commission rejected an analogous “fair use” proposal that would
13 permit republication of “limited portions of campaign materials *for analysis and other uses*,”
14 reasoning that such an approach “could swallow the rule.”⁵⁸

15 Thus, the length of time — half their duration — that SOFA’s ads displayed the
16 campaign photos of Zinke and his family does not constitute “a brief quote of materials that

⁵⁴ *Id.*

⁵⁵ MUR 6789 SOFA Resp. at 1.

⁵⁶ MUR 6789 Zinke Resp. at 6. Zinke also cites several prior MURs involving republication in support of its argument that no republication occurred. The Commission was divided in all of the cited cases except MUR 5743 (Betty Sutton), which is distinguished *infra* at n.57. *See id.* at 5-7.

⁵⁷ *See* MUR 6789 Zinke Resp. at 6; *compare* MUR 5743 (Betty Sutton) (dismissing (with admonishment) where Emily’s List used a headshot photo on one page of a multi-page mailer, based on the incidental use and *de minimis* value); MUR 5996 (Tim Bee) (dismissing republication allegation as *de minimis* where the subject advertisement contained a republished photograph of a candidate that comprised only two seconds of a 30-second advertisement).

⁵⁸ 2003 Coordination E&J at 443 (emphasis added).

1 demonstrate a candidate's position as part of [SOFA's] views," contrary to Respondents'
2 argument.⁵⁹ SOFA's ads used Zinke's campaign materials "in part," satisfying the requirement
3 of the republication statute. Accordingly, we recommend that the Commission find reason to
4 believe that SOFA violated 52 U.S.C. §§ 30116(a), 30118(a), and 30104(b) by making an in-
5 kind contribution as a result of republishing Zinke campaign materials and by failing to properly
6 disclose the cost of the communications as a contribution.

7 **B. Coordination**

8 Both Complaints allege that SOFA and Zinke engaged in coordinated conduct, resulting
9 in excessive and prohibited in-kind contributions from SOFA to Zinke in the form of coordinated
10 communications. The Complaint in MUR 6789 bases its coordination allegation on SOFA's
11 republication of two television ads, as described above.⁶⁰ That Complaint also suggests that
12 there may be other ways Respondents coordinated, based on their relationship.⁶¹ The Complaint
13 in MUR 6852 alleges that because Zinke founded SOFA and ran it until shortly before he
14 became a federal candidate, all communications disseminated by SOFA supporting him would
15 constitute coordinated communications.⁶² That Complaint alleges that SOFA began
16 disseminating such ads shortly after Zinke left SOFA and around the time he filed his candidacy
17 statement.⁶³ The Complaint notes that SOFA disclosed spending more than \$200,000 on ads

⁵⁹ See 11 C.F.R. § 109.23(b)(4).

⁶⁰ MUR 6789 Compl. at 10-12.

⁶¹ *Id.* at 12.

⁶² MUR 6852 Compl. at 2.

⁶³ *Id.*

1 supporting Zinke.⁶⁴ The MUR 6852 Complaint also alleges that Lester Cooper, the common
2 vendor paid by both committees, could have facilitated coordination between the two
3 committees.⁶⁵ Finally, the MUR 6852 Complaint, after alleging that SOFA's communications
4 were coordinated with Zinke, concludes, "[u]ltimately, the Commission must determine that
5 SOFA is affiliated with Mr. Zinke's campaign committee."⁶⁶

6 Zinke denies the coordination allegation: "No public communication (11 CFR 100.26)
7 by a Super PAC has been the result of any direct or indirect cooperation, sharing, consultation,
8 agreement, or conducted [sic] in concert with whatsoever, or at the request or suggestion of any
9 Respondent or his or her respective agent (if any)."⁶⁷ Zinke asserts that the use of the
10 photographs does not constitute the making of a coordinated communication because the
11 photographs were available publicly, Zinke did not suggest or assent to their use, and Zinke was
12 not materially involved in any decision regarding the ads or in any substantial discussion.⁶⁸
13 Zinke finally asserts that SOFA "did not use any vendor in the use of the photographs, or the
14 production of its ads that has provided services" to Zinke.⁶⁹

15 Zinke's Response in MUR 6852 includes an affidavit from Cooper, the alleged common
16 vendor, who attests that he was not hired by Zinke or SOFA for the purpose of creating a public
17 communication or any other general political advertising.⁷⁰ He states he was hired to conduct

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ MUR 6852 Compl. at 3.

⁶⁷ MUR 6852 Zinke Resp. at 9 (Aug. 28, 2014).

⁶⁸ MUR 6789 Zinke Resp. at 2, 4, 9.

⁶⁹ *Id.* at 9.

⁷⁰ See Cooper Aff. ¶ vii (Zinke MUR 6852 Resp., Exh. 1).

1 research and only provides the results of his research to clients.⁷¹ Cooper states he does not get
2 involved in how that information is used, and that he was not an agent of Zinke or the
3 Committee.⁷² He also states that he “was never in a position to acquire information about the
4 Zinke campaign’s plans, project, activities or needs of Ryan Zinke or Zinke for Congress.”⁷³
5 SOFA’s Response in MUR 6852 argues that its payments to its vendors were made for the
6 “political purposes of SOFA” and not on behalf of any candidate.⁷⁴

7 We believe that the available information supports a further reason to believe finding that
8 SOFA’s advertisements containing the republished campaign materials — and other SOFA
9 communications — were coordinated with Zinke. The Act defines “contribution” to include
10 anything of value made by any person for the purpose of influencing any election for federal
11 office.⁷⁵ During the 2014 election cycle, it was unlawful to make a contribution to a candidate
12 and the candidate’s authorized political committee with respect to any election for federal office
13 that in the aggregate exceeded \$2,600.⁷⁶ Multicandidate political committee contributions to a
14 candidate and the candidate’s authorized committees are limited to \$5,000 per election; and
15 contributions from corporate treasury funds and labor unions are prohibited.⁷⁷ The Act also

⁷¹ *Id.* ¶¶ vii-viii.

⁷² *Id.* ¶¶ viii, x.

⁷³ *Id.* ¶ ix.

⁷⁴ MUR 6852 SOFA Resp. at 1.

⁷⁵ 52 U.S.C. § 30101(8)(A)(i).

⁷⁶ *Id.* § 30116(a)(1)(A).

⁷⁷ *See id.* §§ 30116(a)(1)(C), 30118(a).

1 provides that no candidate or political committee may knowingly accept a contribution in
2 violation of section 30116.⁷⁸

3 A coordinated communication is considered an in-kind contribution from a person to a
4 candidate and is subject to the limits, prohibitions, and reporting requirements of the Act.⁷⁹ A
5 communication is coordinated with a candidate, a candidate's authorized committee, a political
6 party committee, or their agent if the communication: (1) is paid for by a person other than that
7 candidate, authorized committee, or political party committee (the "payment prong");
8 (2) satisfies at least one of the content standards set forth in 11 C.F.R. § 109.21(c) (the "content
9 prong"); and (3) satisfies at least one of the conduct standards set forth in 11 C.F.R. § 109.21(d)
10 (the "conduct prong").⁸⁰

11 The payment prong of the coordinated communication test is satisfied because SOFA, a
12 third party, paid for the ads.⁸¹ The content prong is also satisfied because the television ads were
13 public communications that expressly advocated Zinke's election.⁸²

14 The conduct prong will be satisfied if: (1) the communication was created, produced, or
15 distributed at the request or suggestion of a candidate, campaign, or political party committee, or
16 the payor suggests the communication and the candidate, campaign or political party committee
17 assents to the suggestion (the "request or suggestion" standard); (2) the candidate, campaign, or
18 political party committee was materially involved in decisions regarding the communication (the

⁷⁸ *Id.* § 30116(f).

⁷⁹ *See* 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.21(b).

⁸⁰ *See id.* § 109.21(a).

⁸¹ *See id.* § 109.21(a)(1).

⁸² *See id.* § 109.21(c)(4)(i). *See also* discussion p.12 *supra*.

1 “material involvement” standard); or (3) the communication was created, produced, or
2 distributed after one or more substantial discussions between the payor and the candidate,
3 campaign, or a political party committee involving information that is material to the
4 communication (the “substantial discussion” standard).⁸³ The conduct prong may also be
5 satisfied if the parties contracted with or employed a common vendor that used or conveyed
6 material information about the campaign’s plans, projects, activities or needs, or used material
7 information gained from past work with the candidate to create, produce, or distribute the
8 communication.⁸⁴

9 The conduct prong is not solely satisfied by SOFA’s republication of Zinke’s
10 photographs because those were available publicly.⁸⁵ It is also not satisfied through Lester
11 Cooper, the common vendor paid by both committees, because Cooper appears to have
12 performed work for SOFA, the payor of the communication, before working with candidate
13 Zinke.⁸⁶ We believe there is sufficient information, however, to support a reason to believe
14 finding that the conduct prong of the coordination regulation has been met, making a focused
15 investigation in order.

16 The available information indicates that Zinke’s role in SOFA merged into his candidacy.
17 Zinke founded SOFA and served as its chairman, he was its public face, and the publicly
18 available information does not indicate that anyone else spoke on behalf of SOFA during that

⁸³ See *id.* § 109.21(d)(1)-(3).

⁸⁴ See *id.* § 109.21(d)(4).

⁸⁵ See *id.* § 109.21(d)(2), (3). See also 2006 Coordination E&J at 33,205 (explaining that “[u]nder the new safe harbor, a communication created with information found . . . on a candidate’s or political party’s Web site, or learned from a public campaign speech . . . is not a coordinated communication”).

⁸⁶ As noted above, SOFA paid Cooper on August 15 and November 4, 2013, and then Zinke for Congress paid Cooper on November 21, 2013.

1 time. SOFA and Zinke's own materials contradict Respondents' attempt to minimize Zinke's
2 control and authority over SOFA by calling him "honorary chair."⁸⁷

3 Zinke traveled around the country, raising funds for SOFA and giving speeches.⁸⁸ At the
4 same time he was fundraising for and representing SOFA, Zinke emerged as a possible candidate
5 for either the Senate or House race in Montana. In fact, Zinke and SOFA acknowledged Zinke's
6 possible candidacy in a May 2013 SOFA press release and all but confirmed it in SOFA's
7 August 19 Facebook post showing a headshot of Zinke with text stating, "MONTANA is the
8 Battleground to Take Back America."⁸⁹

9 When Zinke announced his candidacy on October 21, 2013, SOFA was still physically
10 located on property owned by Zinke close to his Montana residence. After Zinke's resignation
11 from SOFA on September 30, SOFA did not name a successor chair until October 23, after
12 Zinke declared his candidacy.⁹⁰ From October 11 to the date of Zinke's announcement, SOFA
13 rolled out Zinke's congressional candidacy through social media.⁹¹ SOFA's Facebook and
14 Twitter posts urged readers to "Draft Zinke," make contributions to SOFA specifically to support
15 him, and linked to his live candidacy announcement.

⁸⁷ See MUR 6852 Zinke Resp. at 2 ("While Mr. Zinke, a decorated Navy SEAL, acknowledges his former role as honorary chair of Special Operations for America"). Zinke identified himself as SOFA's chairman in his House Financial Disclosure Report. See http://clerk.house.gov/public_disc/financial-pdfs/2014/8214247.pdf; see also Attach. 2.

⁸⁸ See *supra* at 5-6.

⁸⁹ See Attach. 6.

⁹⁰ We have not located any publicly available information regarding who was directing the "Draft Zinke" social media campaign at SOFA during this time period. We would seek this information during the proposed investigation in an effort to determine whether Zinke's formal control over SOFA as its founder may have carried over into "informal practices" that played a role in "direct[ing]" SOFA's later decisions. See 11 C.F.R. § 300.2(c)(2)(ii) (describing how a federal candidate may maintain or control an entity and thus be subject to the Act's "soft money" provisions).

⁹¹ See Attach. 8a and 8b.

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1 After rolling out Zinke's candidacy, SOFA made its first independent expenditure
2 supporting Zinke on the same day he announced his candidacy and its second independent
3 expenditure the next day. SOFA continued to disseminate independent expenditure advertising
4 supporting Zinke through early February 2014 and then again during April and May, shortly
5 before the June 3, 2014, primary election.

6 The facts described here support a reasonable inference that SOFA and Zinke engaged in
7 coordinated conduct that would satisfy the request or suggestion, material involvement, or
8 substantial discussion standards and that led to excessive, prohibited and unreported in-kind-
9 contributions to the Committee in the form of coordinated communications.⁹² Indeed, SOFA's
10 roll-out of Zinke's candidacy was only possible because SOFA was Zinke's plans, projects,
11 activities, and needs for most of 2013.⁹³

12 The Responses do not persuasively suggest otherwise. The Responses merely recite legal
13 standards and do not provide any factual details in support of Respondents' denials. Neither do
14 the affidavits by Zinke for Congress's treasurer and Zinke, which were attached to the
15 Committee's Response in MUR 6789, or the affidavit by SOFA's former treasurer, Scott
16 Hommel, attached to SOFA's Response in MUR 6852. The MUR 6789 affidavits do not attest
17 to any facts; rather, they state that "the information and statement contained in Attorney
18 DeVito's response are accurate and true."⁹⁴ And Hommel's affidavit recites legal standards but
19 contains no substantive facts. As alleged in the MUR 6852 Complaint, it strains credulity that

⁹² See 11 C.F.R. § 109.21(d)(1), (2), (3).

⁹³ See *id.* § 109.21(d)(3).

⁹⁴ Compare Factual & Legal Analysis at 8, MUR 6679 (Renacci for Congress) (affidavits and unsworn responses provided sufficient detail to rebut coordination allegations).

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1 Zinke's use of SOFA until shortly before he created his own campaign committee did not result
2 in SOFA's use of Zinke's plans, project and needs in its purportedly independent expenditures.

3 At this stage in the enforcement process, *i.e.*, the initial reason to believe stage, the facts
4 collectively support a finding that SOFA and Zinke engaged in coordinated conduct. A reason to
5 believe determination is not conclusive that Respondents violated the Act but rather recognizes
6 the seriousness of the allegations and provides an opportunity to conduct an administrative fact-
7 finding inquiry to resolve whether in fact a violation occurred.⁹⁵ The Commission has
8 determined that a reason to believe finding is appropriate "in cases where the available evidence
9 in the matter is at least sufficient to warrant conducting an investigation."⁹⁶ Under the
10 circumstances presented here, an investigation is warranted. Accordingly, we recommend that
11 the Commission find reason to believe that SOFA violated 52 U.S.C. §§ 30116(a), 30118(a), and
12 30104(b) by making and failing to disclose excessive and prohibited in-kind contributions in the
13 form of coordinated communications and that Zinke and Zinke for Congress violated 52 U.S.C.
14 § 30116(f) by knowingly accepting excessive and prohibited in-kind contributions in the form of

⁹⁵ See Statement of Policy Regarding Commission Act in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007) (A reason to believe finding indicates "only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred.").

⁹⁶ See *id.* (reason to believe finding followed by an investigation is appropriate where complaint "credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred" and, if so, its exact scope).

1 coordinated communications and failing to disclose these contributions.⁹⁷ We further
2 recommend that the Commission authorize compulsory process in support of an investigation.

3 **C. Statement of Candidacy and Testing the Waters**

4 The MUR 6852 Complaint also alleges that Zinke filed his Statement of Candidacy late
5 and alleges that SOFA paid for his exploratory activity.⁹⁸ Zinke asserts that he timely filed his
6 Statement of Candidacy with the Commission on October 21, 2013, and that Zinke for Congress
7 filed its Statement of Organization with the Commission on the same day.⁹⁹ Zinke further
8 asserts that as accurately reflected on Zinke for Congress's 2013 Year End Report, the
9 Committee received no contributions and made no expenditures prior to October 24, 2013.¹⁰⁰

10 The Act provides that once an individual achieves candidate status, he or she must file a
11 Statement of Candidacy within fifteen days and designate a principal campaign committee; his or
12 her principal campaign committee must file a Statement of Organization no later than ten days
13 after it has been designated by the candidate.¹⁰¹ Under the Act, an individual becomes a
14 candidate for Federal office when his or her campaign either receives or makes \$5,000 in
15 contributions or expenditures or consents to another person's receiving contributions or making

⁹⁷ Pending the investigation, we make no recommendations with respect to the assertion that SOFA is affiliated with Zinke for Congress as a result of coordination between the two committees. Under the Commission's regulations, "affiliated" committees share contribution limits. 11 C.F.R. § 100.5(g)(3). An authorized committee, however, such as Zinke for Congress, could only be affiliated with another authorized committee. *Id.* § 100.5(g)(5). "Authorized committee" is defined as the principal campaign committee or any other political committee authorized by a candidate to receive contributions or make expenditures on behalf of such candidate. 52 U.S.C. § 30101(6); 11 C.F.R. § 100.5(f)(1). As an independent-expenditure-only committee, SOFA does not meet the definition of an authorized committee, despite the close relationship between SOFA and Zinke.

⁹⁸ MUR 6852 Compl. at 1-2.

⁹⁹ MUR 6852 Zinke Resp. at 2.

¹⁰⁰ *Id.*

¹⁰¹ 52 U.S.C. §§ 30102(e)(1), 30103(a).

1 expenditures in excess of \$5,000 on the individual's behalf.¹⁰² As an exception to this general
2 rule, an individual may raise or spend more than \$5,000 without triggering candidate status only
3 if he or she is engaged in permissible "testing the waters" activities, and if the individual gives
4 no indication that a decision to run has already been made.¹⁰³ A candidate who is testing the
5 waters is also precluded from soliciting, receiving, or spending funds in connection with an
6 election for Federal office, unless those funds are subject to the limitations, prohibitions, and
7 reporting requirements of the Act.¹⁰⁴ A committee is required to maintain records of
8 expenditures incurred during the testing the waters period and to disclose those expenditures in
9 its first disclosure report filed with the Commission.¹⁰⁵

10 SOFA, founded and chaired by Zinke, who also served as the public face of the
11 organization, provided publicity for Zinke in the months before he declared his candidacy, *see*,
12 for example, SOFA's Facebook posting on August 19, 2013, consisting of a photograph of Zinke
13 with the words "MONTANA is the battleground to take back America. Join the BATTLE.
14 SOFA Chairman Ryan Zinke."¹⁰⁶ The available facts suggest that Zinke may have made the
15 decision to run for federal office earlier than indicated by his Statement of Candidacy.¹⁰⁷ We
16 recommend, however, that the Commission take no action at this time as to this allegation. Our
17 proposed investigation regarding coordination will involve the same facts at the heart of an

¹⁰² 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a).

¹⁰³ *See* 11 C.F.R. §§ 100.72(a), 100.131(a).

¹⁰⁴ *See id.*; 52 U.S.C. § 30125(e).

¹⁰⁵ *See* 11 C.F.R. §§ 101.3, 100.72(a), 100.131(a), 101.2(b), 104.3(a).

¹⁰⁶ *See* Attach. 6.

¹⁰⁷ *See supra* at 4-6.

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1 inquiry into when Zinke made the decision to run; thus, we will be better informed to make a
2 recommendation at that time.

3 We also recommend no action at this time regarding the allegation that SOFA paid for
4 Zinke's pre-declaration exploratory activity. Given Zinke's resignation from SOFA only days
5 before SOFA began its "Draft Zinke" campaign on social media, that campaign does not appear
6 to have been independent of Zinke. These circumstances suggest that SOFA's "Draft Zinke"
7 campaign may have served to test the waters for Zinke, for example, by using social media to
8 gauge public interest in his potential campaign. As noted, candidates who are testing the waters
9 are precluded from soliciting, receiving, or spending funds in connection with an election for
10 federal office unless those funds are subject to the Act's limitations and prohibitions and
11 reporting requirements.¹⁰⁸ Because SOFA accepted corporate contributions and contributions in
12 excess of the Act's limitations — for example, SOFA received \$45,000 from an individual
13 contributor on October 2 and 3, 2013,¹⁰⁹ after Zinke resigned from SOFA and before SOFA
14 began its "Draft Zinke" campaign — SOFA may have used impermissible funds for Zinke's
15 testing the waters.

¹⁰⁸ 11 C.F.R. §§ 100.72(a), 100.131(a) (stating that "only funds permissible under the Act may be used for [testing the waters] activities"). Further, once Zinke became a candidate, it would be impermissible for SOFA to raise or spend funds that do not comply with the Act's limits and prohibitions if SOFA was maintained or controlled by Zinke. *See* 52 U.S.C. § 30125(e) (prohibition on federal candidates, their agents, and entities directly or indirectly established, financed, maintained, or controlled by federal candidates from soliciting, receiving, directing, transferring, or spending funds in connection with an election for federal office, including funds for any federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act).

¹⁰⁹ *See* SOFA 2013 Year End Report at 43 (Jan. 31, 2014).

Moreover, Zinke for Congress would have to disclose such spending, for example, as an in-kind contribution from SOFA.¹¹⁰ As noted, Zinke for Congress disclosed no activity prior to October 21, 2013, the date Zinke declared his candidacy. In addition, Zinke's formation of an exploratory committee on October 14, 2013, including the launch of www.ryanzinke.com,¹¹¹ suggests that some funds may have been spent in an exploratory effort, but Zinke for Congress disclosed none.

In light of our reason to believe recommendations in order to investigate the conduct between Zinke and SOFA including the time period shortly before Zinke declared his candidacy, we make no separate recommendations as to Respondents' possible violations of the Act's candidacy filing and disclosure requirements.

E. Continental Divide and Battle Plan Strategies

The MUR 6852 Complaint also alleges that SOFA's payments to Continental Divide, Zinke's family-owned corporation, and Battle Plan Strategies, SOFA's former treasurer's sole proprietorship, while Zinke was SOFA's chairman constitute a violation of the Act.¹¹² Continental Divide asserts in its Response that the Complaint does not allege any wrongdoing and merely recites payments made to it by SOFA.¹¹³ Battle Plan Strategies asserts that all payments to it by SOFA were for work performed for SOFA.¹¹⁴ The available information does

¹¹⁰ See 52 U.S.C. § 30104(b). The Act defines a contribution as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8)(A)(i). Under the Commission's regulations, the term "anything of value" includes all in-kind contributions, and unless specifically exempted, the provision of goods and services for no charge at all or at a charge that is less than the usual and normal charge. 11 C.F.R. § 100.52(d)(1).

¹¹¹ See *supra* at 6.

¹¹² MUR 6852 Compl. at 1.

¹¹³ MUR 6852 Continental Divide Resp. at 1.

¹¹⁴ MUR 6852 Battle Plan Strategies Resp. at 1.

1 not suggest that these payments were not for work performed or reimbursements. Thus, we
2 recommend that the Commission find no reason to believe that Continental Divide, LLC, or
3 Battle Plan Strategies violated the Act and close the file as to them.

4 **IV. PROPOSED INVESTIGATION**

5 The proposed investigation would focus on SOFA's ads disseminated in support of Zinke
6 in late 2013 and the first half of 2014. We would also seek information from SOFA and Zinke
7 regarding their communications shortly before and after Zinke resigned from SOFA. We would
8 seek to obtain the information informally but request authority to conduct formal discovery if
9 needed.

10 **V. RECOMMENDATIONS**

- 11 1. Find reason to believe that Special Operations for America and Kaarlo Hietala in
12 his official capacity as treasurer violated 52 U.S.C. §§ 30116(a)(1), 30118(a), and
13 30104(b);
- 14 2. Find reason to believe that Zinke for Congress and Lorna Kuney in her official
15 capacity as treasurer violated 52 U.S.C. §§ 30116(f), 30118(a), and 30104(b);
- 16 3. Find reason to believe that Ryan K. Zinke violated 52 U.S.C. §§ 30116(f) and
17 30118(a);
- 18 4. Take no action at this time as to the allegations that Ryan K. Zinke filed his
19 Statement of Candidacy late and failed to report testing the waters expenses;
20
- 21 5. Take no action at this time as to the allegation that Special Operations for
22 America made prohibited contributions in connection with Ryan K. Zinke's
23 candidacy exploratory expenses;
- 24 6. Find no reason to believe that Battle Plan Strategies violated the Act and close the
25 file as to it;
- 26 7. Find no reason to believe that Continental Divide, LLC, violated the Act and
27 close the file as to it;
- 28 8. Approve the attached Factual and Legal Analyses;
- 29
- 30
- 31
- 32
- 33
- 34

9. Authorize the use of compulsory process, including the issuance of appropriate interrogatories, document subpoenas and deposition subpoenas, as necessary; and

10. Approve the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

9/11/17

Date

Kathleen M. Guith
Kathleen Guith
Associate General Counsel for Enforcement

Mark Allen/kg
Mark Allen
Assistant General Counsel

Elena Paoli
Elena Paoli
Attorney

Attachments:

1. SOFA website homepage (Feb. 24, 2013)
2. SOFA website homepage (Mar. 27, 2013)
3. SOFA fundraiser invitation
4. SOFA website July 13, 2013
5. SOFA Facebook posting July 13, 2013
6. SOFA August 19, 2013 Facebook posting
7. SOFA's October 11, 2013 Facebook posting
- 8a. SOFA's Twitter postings (Oct. 11 – Oct. 21)
- 8b. SOFA's Facebook postings (Oct. 12 – Oct. 21)
9. SOFA's October 22, 2013 Facebook posting and link to website
10. SOFA's "challenge coin" solicitation
11. Chart of SOFA's IEs supporting Zinke
12. Still from SOFA's TV Ad
13. Zinke for Congress Facebook Page with family portrait photograph
14. Scott Wilson Photographs Facebook page of Zinke campaign photographs



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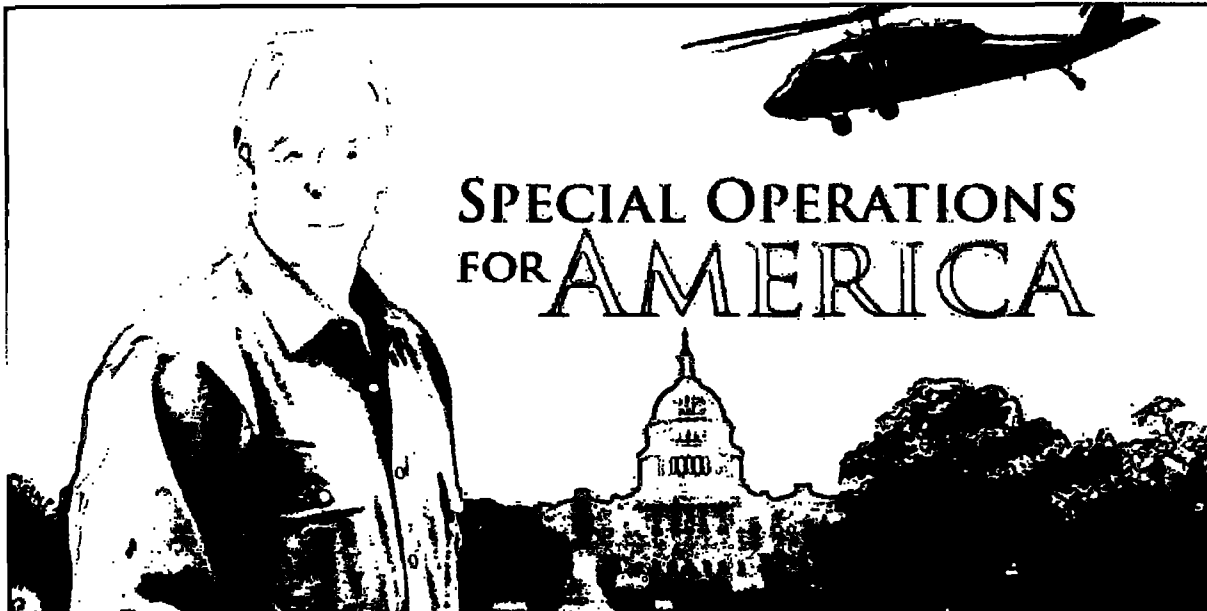
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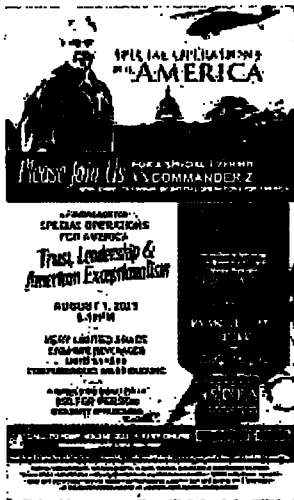
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Attachment 3

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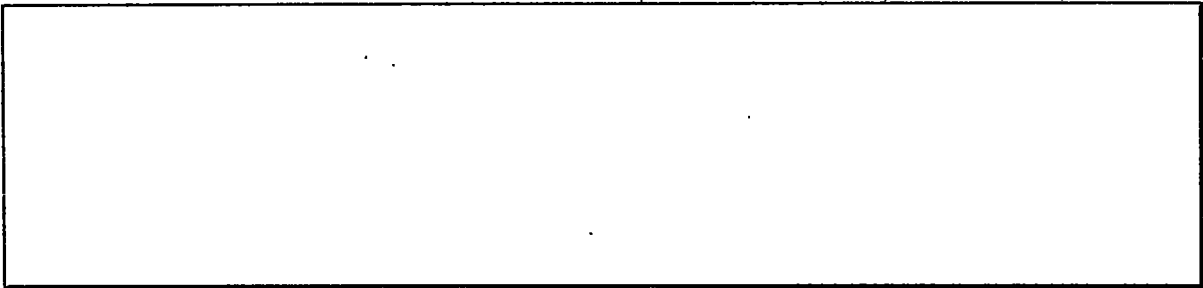
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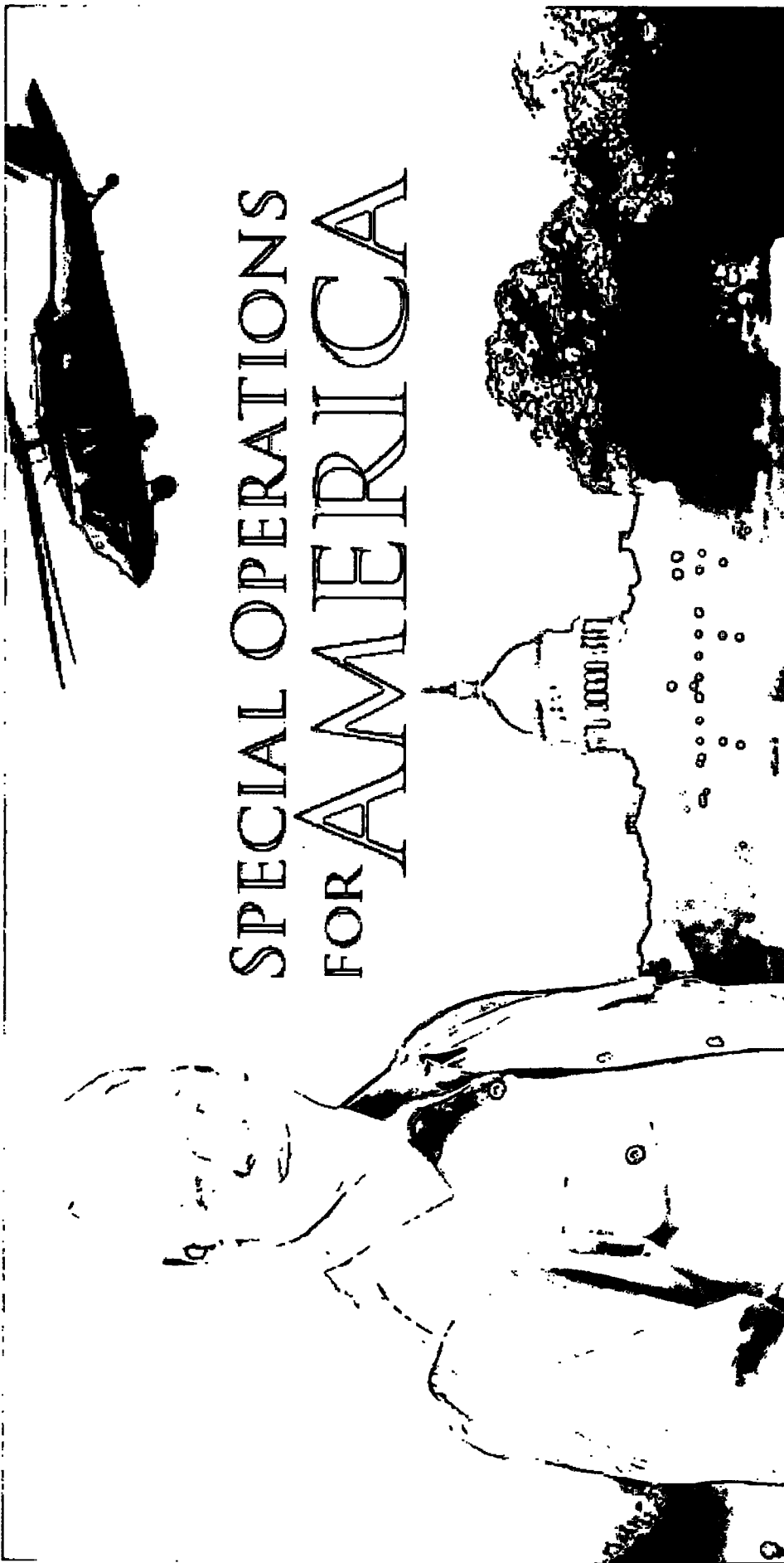
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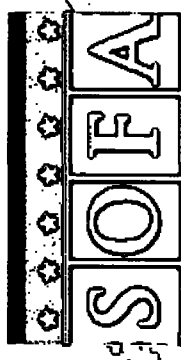
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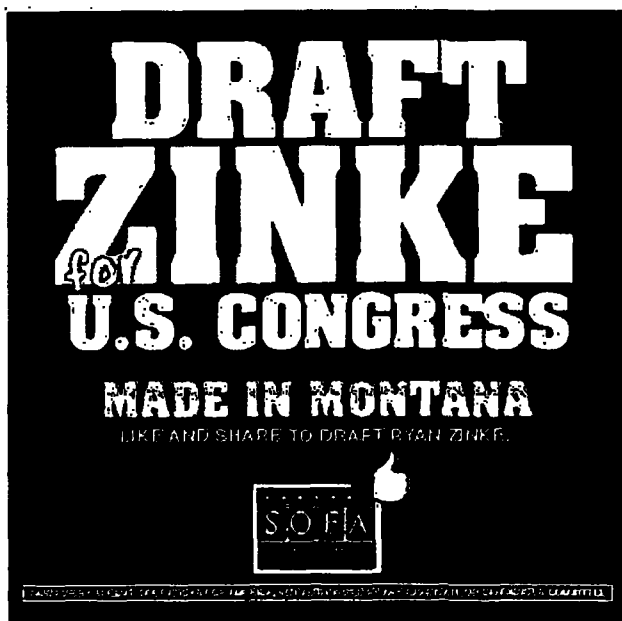


Melissa Harris I'm there. What needs to be done next?
September 21, 2013 at 4:38pm



Kenneth Scott RIGHT WITH YA RYAN
1 · August 19, 2013 at 9:59pm

Attachment 6
Page 1 of 1



Special Operations for America
October 12, 2013

We need YOUR help. <http://bit.ly/DraftZinke> We need leadership in Washington and we need to #DraftZinke Montana! <http://bit.ly/DraftZinke>

Like · Comment · Share

128 people like this.

Top Comment

38 shares

Nancy Zimmerman For all of you who have not heard about Ryan, please go to the site listed by Gordon--there is a ton of info on Ryan out there. Check with SOFA also!!

Like · Reply · 2 · October 12, 2013 at 1:18pm



Eddy Wilkerson Why should I support this person when there is no info about him? Post something here so people can be informed. Look what happens when NOTHING was ever posted about Obuthol

Like · Reply · 2 · October 12, 2013 at 10:44am

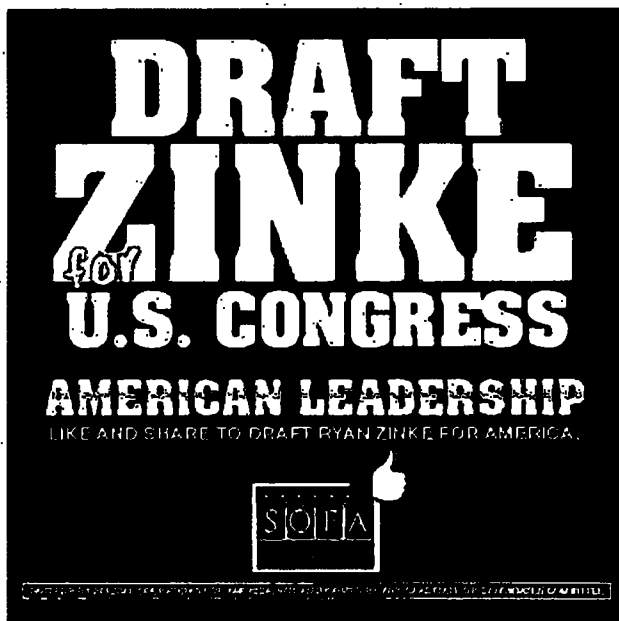
2 Replies



Carla Houchen Who is he and what party is he affiliated with?



Write a comment...



Special Operations for Amer
October 11, 2013 ·

Let's do this. #DraftZinke

Like · Comment · Share

158 people like this.

33 shares



James Eacker Got my support!

Like · Reply · 2 · October 11, 2013



Molly Foster Who is he?

Like · Reply · 1 · October 12, 2013



Rocky Hart Give em HELL Zinke!

Like · Reply · October 11, 2013 at 8:



Adam Goldman I knew it!

Like · Reply · October 11, 2013 at 7:



Linda Maria Wagner It would be so good if there was someone in Washington D.C. with the values, and the character to stand against tyranny that wants to overwhelm our country. I'm praying for you, your wife, and family.

Like · Reply · 1 · October 11, 2013

View 11 more comments



Write a comment...

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Maryland Women's Basketball

5,728 people like this.

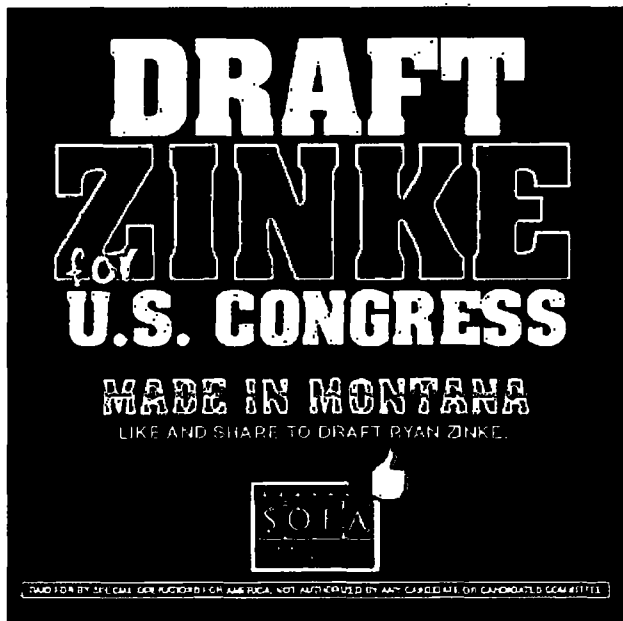
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• Like 1

- Tweet 0



We need Leadership in Washington. Let's #DraftZinke

<http://www.soforamerica.org>

Friends, Washington is in shambles. There is no one who will lead, only those who will follow. Here at Special Operations for America we want to help draft candidates who will be a leader and a voice. We're asking you to help us make that possible.

Please consider donating to the cause. Any amount will help us reach our goal. Let's work together in the fight to take back America.

Contribution Amount

- ☐ \$25
- ☐ \$50
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- ☐ \$500

- ☐ \$1,000
- ☐ \$2,400
- ☐ \$

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We need YOUR help. bit.ly/DraftZinke We need leadership in Washington and we need to #DraftZinke for... fb.me/HW4bqOnlp

SpecialOpsforAmerica
Let's do this. #DraftZinke fb.me/6lISkJVfK

SpecialOpsforAmerica
Washington needs leadership. Should Ryan Zinke run for Congress? Sound off in the comments below!

SpecialOpsforAmerica
Are you or anyone you know participating in this march on October 13? fb.me/M7m3xRN

3:20 PM

SpecialOpsforAmerica
 www.sopsforamerica.org

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281

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4

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Special Ops for America 1-800-4-A-ARMED

ICYMI: Zinke forms exploratory committee. fb.me/NEu7eFpl

Special Ops for America ...

Tick tock. fb.me/GieqTYOn

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Special Ops for America

Statement from AIVC Founder Kieran Michael Lalor on AIVC's Draft Zinke Efforts to Repeal the Clean Water Act

Special Ops for America . . . 2023-2024

"If you or anyone you know wants to hire transitioning military professionals or veterans then please tell them... fb.me/2Ozsl1bet

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#truth fb.me/3nCORLQqL

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SpecialOpsforAmerica fb.me/14SEYpDV

SpecialOpsforAmerica . . . [Send Us Your Letter!](#)

Help us support former Navy SEAL and former SOFA Chairman Ryan Zinke in the fight to take back America. It all... [fb.me/15NzqlyHc](#)

SpecialOpsforAmerica <https://www.facebook.com/SpecialOpsforAmerica>
Check this out. Former SOFA Chairman Ryan Zinke. Visit the exploratory committee FB page here... [fb.rnc/20swU4c8U](https://www.facebook.com/fb.rnc/20swU4c8U)

SpecialOpsforAmerica Had to share. fb.me/2qOxUiro6

SpecialOpsforAmerica

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Jake Tapper

Ted Cruz Not Looking for '99 New Friends' in the Senate, he tells @jonkari

> abcnews.go.com/blogs/politics

View summary

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dat websit zinke. om 6hf Pbqm


OSI 1

SpecialOpsforAmerica

Very curious indeed. fb.me/25c:TTT0

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1004446267




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1,150

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**SpecialOpsforAmerica** · 11:00 AM · 11/11/11

Are you watching @ryan_zinke's announcement on ryanzinke.com #mtpol #mtal


**SpecialOpsforAmerica** · 11:00 AM · 11/11/11

1 hour till the Ryan Zinke Exploratory Committee announcement. Watch it at ryanzinke.com, fb.me/VWjmQaHV

**Ryan Zinke** · 11:00 AM · 11/11/11


Some light reading material to start your morning. Let's work on restoring trust in our government! ow.ly/q11yu #mtpol #mtal

2

**SpecialOpsforAmerica** · 11:00 AM · 11/11/11

2A Rally at the Alamo... fb.me/12jvIYLG5

3 [View Summary](#)

**SpecialOpsforAmerica** · 11:00 AM · 11/11/11

and still climbing... fb.me/6nVhhCig0

[View Summary](#)

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Very curious indeed.

INVESTOR'S
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DAILY

Obama's Curious Purge Of The Military Continues

news.investors.com

The firing of two nuclear commanders in a week adds to a body count which suggests that either we have the most corrupt and incompetent general staff in history or our military is being reshaped for another...

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Special Operations for America

October 16, 2013

Government is back open. Share your thoughts on this government shutdown in the comments below.

2148LikeLike · Share



Special Operations for America shared Ryan Zinke for Congress's photo.

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Who's the boss? You're the boss! Tell Washington to get back to to work. Share if you agree.



Special Operations for America shared a link.

October 18, 2013

This just in: Ryan Zinke Exploratory Committee will be making an important announcement MONDAY - 11am MST. You can watch live at this link: <http://ow.ly/pX1Xa>



Ryan Zinke Exploratory Committee

www.ryanzinke.com

Ryan Zinke Exploratory Committee

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Stay connected with Ryan Zinke Exploratory Committee - sign up for updates on his website: <http://ryanzinke.com/>

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Hello world! September 25, 2013Uncategorizedrkearley@yahoo.comWelcome to WordPress.

This is your first post. Edit or delete it, then start blogging!One comment so far

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October 18, 2013



Special Operations for America

October 21, 2013

- Are you watching @ryan_zinke's announcement on [#mtpol #mtal](http://t.co/luLdgr7uoc)

Ryan Zinke for Congress

ryanzinke.com

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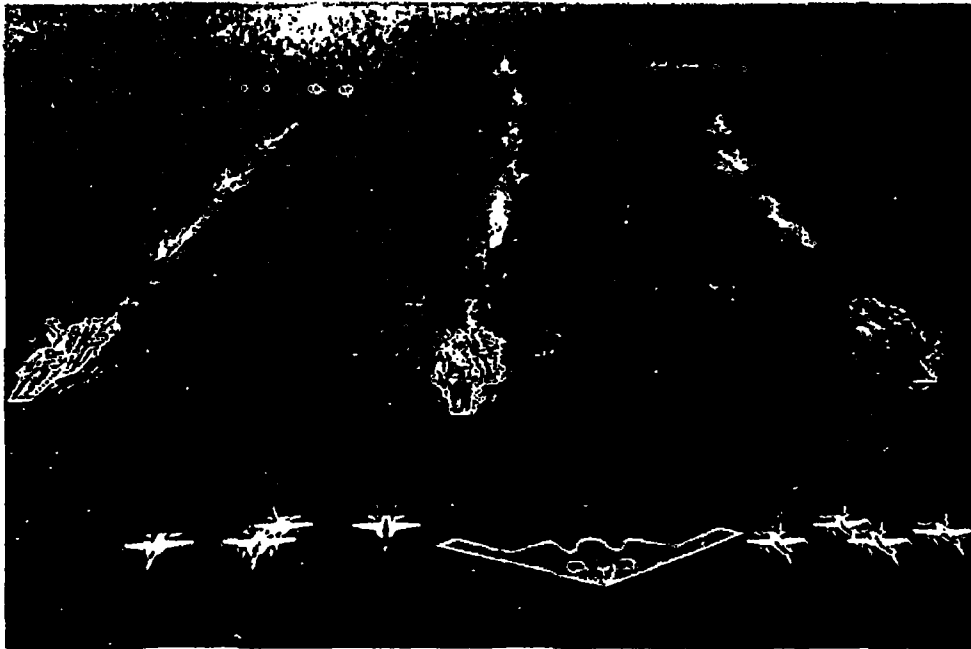


Ryan Zinke Exploratory Committee

www.ryanzinke.com

Ryan Zinke Exploratory Committee

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Special Operations for America

October 12, 2013

We need YOUR help. <http://bit.ly/DraftZinke> We need leadership in Washington and we need to [#DraftZinke](http://bit.ly/DraftZinke) for Montana! <http://bit.ly/DraftZinke>



No deal in sight as shutdown approaches third week

www.cnn.com

The stakes of the stalemate are high -- and climbing.

521 ShareLikeLike · · Share



Special Operations for America

October 13, 2013

Statement from AIVC Founder Kieran Michael Lalor on AIVC's Draft Zinke Efforts
AFGHANISTAN & IRAQ VETERANS FOR CONGRESS

For Immediate Release

13 October 2013

...

Continue Reading ...

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Special Operations for America shared SEAL Of Honor's photo.

October 13, 2013

#truth

A good Navy is not a provocation to war. It is the surest guaranty of peace. — with Akon Kon
and 46 others.

Wounded Army Ranger Salutes From Hospital Bed While Receiving Purple Heart
www.buzzfeed.com

This powerful photo of a wounded soldier sent to his wife from Afghanistan is going viral after she shared it on...

53823 SharesLikeLike · · Share



Special Operations for America shared a link.

October 15, 2013

ICYMI: Zinke forms exploratory committee.



Zinke forms exploratory committee

helenair.com

Former state Sen. Ryan Zinke, R-Whitefish, said Monday he is forming an exploratory committee for a race for the Montana's lone U.S. House...

1611 ShareLikeLike · · · Share



Special Operations for America shared a link.

October 14, 2013

Tick tock.



2852549 SharesLikeLike · · Share



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October 15, 2013

Had to share.



HAPPY BOSS'S DAY!



261 Like Like · · Share ·



Special Operations for America

October 16, 2013

Help us support former Navy SEAL and former SOFA Chairman Ryan Zinke in the fight to take back America. It all starts in Montana. Ryan Zinke Exploratory Committee #DraftZinke
<http://bit.ly/DraftZinke>

Very curious indeed.

INVESTOR'S
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Obama's Curious Purge Of The Military Continues

news.investors.com

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Stay connected with Ryan Zinke Exploratory Committee - sign up for updates on his website:
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Hello world! September 25, 2013Uncategorizedrkearley@yahoo.comWelcome to WordPress.

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- Are you watching @ryan_zinke's announcement on <http://t.co/luLdgr7uoe> #mtpol #mtal

Ryan Zinke for Congress

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Ryan Zinke Exploratory Committee

www.ryanzinke.com

Ryan Zinke Exploratory Committee

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Special Operations for America

11

The latest Battlefield is out, are you signed up?



Huge News on Navy SEAL Ryan Zinke

The Chronicle Online

11



Special Operations for America

LIKE, SHARE & RT if you want to see the ObamaCare data. @probability

SPECIAL OPERATIONS FOR AMERICA



SOFA Founder Ryan Zinke is Running For Congress!

In July 2012, Ryan Zinke began the fight against the Obama administration when they began leaking classified information for political gain. As a former Commander of SEAL Team Six, he was appalled to see his brave comrades being exploited. They risked their lives for their country. Their reward was being used as political pawns. Since SOFA's inception, Ryan has worked tirelessly to fight for honorable leadership in Washington. His sites have been squarely set on restoring a government that is worth the trust of its citizens.

Zinke's opposition landed him on the Obama Campaign "Enemy List" in the 2012 election. It was a burden worth bearing. America deserves leadership that is worth trusting! He has fought against reckless policies that further our debilitating debt crisis. He has railed against an administration that has proven to be the opposite of "the most transparent in history." Most importantly, he has sought to save the tenants that make our nation truly exceptional. His motivation has always been a love for this country.

Ryan's love of America motivated him to serve 23 years as a Navy SEAL. It led him to serve in Montana's State Senate. It led him to serve as the founder and Chairman of Special Operations for America. And now it has led him to step forward and serve again. On October 1st, Ryan stepped down as Chairman of SOFA and today, he officially launched his campaign to run for Congress.

SOFA NEEDS YOUR HELP:

Washington needs leaders like Ryan Zinke, but he will no doubt be attacked by the Obama administration, Harry Reid and Nancy Pelosi. The last thing they want is a leader like Commande Z in Washington. Navy SEALs and other Special Operators have been solving the world's most complex problems. It is past time that we start sending the number of leaders to solve our problems here at home.

Your Help Today will allow SOFA to beat back the coming attacks from Nancy Pelosi, Harry Reid and the Obama administration. They will fight desperately to keep leaders like Ryan Zinke from turning back their reckless policies which continue to stifle American's future.

Special Operations for America is committed to elect leaders like Ryan Zinke: leaders of Principle, leaders of Action. Ryan Zinke is one of those leaders.

As concerned citizens please do the following:

- 1 **Forward this email to all friends, family and anyone that seeks to preserve America's**
- 2 **Exceptionalism**
- 3 **Donate to Special Operations for America to support candidates like Ryan Zinke**

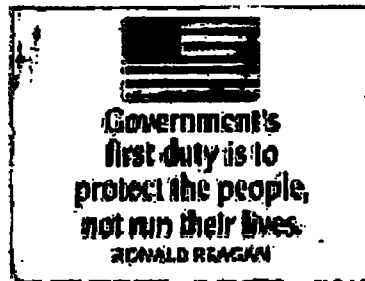
Gary L. Stubbiefield

Commander USN, SEAL (Ret)

Chairman, Special Operations for America

**Donate to SOFA and help us send Ryan and leaders
like him to Washington**

Donate to **SOFA** and help us send **Ryan** and leaders
like him to Washington



To restore our faith in American
government, we must unite in
our commitment for truth,
transparency, and protecting our
individual freedoms.



Ryan Zinke

Journal of Economic Liberty
2020 Page 3 Issues 10-12020

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Two Bronze Stars. One bronze limited edition challenge coin just for you.

<http://www.soforamerica.org>

Ryan Zinke is running for Congress because America needs him. He has earned our support. Please join us in helping to support his efforts.

And if you contribute \$50 or more, we will send you a limited edition Special Operations for America Ryan Zinke bronze challenge coin as a reminder of the values you and Ryan Zinke share.

Contribution Amount

- ☐ \$35
- ☐ \$50
- ☐ \$100
- ☐ \$175
- ☐ \$250
- ☐ \$500
- ☐ \$1,000
- ☐ \$2,500
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Your donation will appear on your credit card or bank statement as "RALLY/PIRYX"

Amount: \$0

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SOFA'S INDEPENDENT EXPENDITURE SPENDING ON ZINKE

VENDOR	PURPOSE	DATE	AMOUNT
Google	Online Advertising	10/21/2013	\$127.58
Facebook	Online Advertising	10/22/2013	\$753.01
Facebook	Online Advertising	11/1/2013	\$624.08
Multi Media Services	Placed Media	11/20/2013	\$5,422.00
Facebook	Online Advertising	12/2/2013	\$586.60
Google	Online Advertising	12/16/2013	\$350.00
Boston Productions	Media Production	12/19/2013	\$2,600.00
Boston Productions	Media Production	1/3/2014	\$7,950.00
Boston Productions	Media Placement Fees	1/3/2014	\$1,106.00
Multi Media Services	Placed Media	1/3/2014	\$25,520.00
Multi Media Services	Placed Media	2/5/2014	\$25,000.00
Multi Media Services	Placed Media	4/2/2014	\$10,000.00
Multi Media Services	Media Placement	5/5/2014	\$30,000.00
Multi Media Services	Media Placement	5/5/2014	\$17,260.00*
Multi Media Services	Media Placement	5/19/2014	\$32,500.00
Multi Media Services	Media Placement	5/23/2014	\$20,000.00

TOTAL

\$192,539.27

- * IE opposed Zinke's primary election opponent Matt Rosendale. All the remaining SOFA IEs supported Zinke.



19044462677



Ryan Zinke for Congress
January 2

I hope that everyone enjoyed the Christmas season. We have much to look forward to in the coming year with the hard work ahead of us, but most of all it's about working together to strengthen the future for our children and grandchildren.

Mark Brotherton, Eric L. Cooper, Ashley Roar and 192 others like this.

11 shares



Andy Anderson I wish you would run for president this country needs a real man in the white house! B wishes and you have vote my sir.
January 2 at 10:46am



Jesse Oldham When will you be coming to Great Falls for a Q&A town hall?
January 3 at 6:53am



David Verdugo Happy new year sir
January 2 at 4:38pm



Connie Sagen Warner Ryan If I still lived in MT I would donate all my time to help get you elected! I'm so sure you will need it.. you've already made a name for yourself, I'm really proud of you! My son is a Marine getting out with all this mess! If you know anything see!
January 2 at 8:25pm



Ryan Zinke
October 14, 2013

Aaron Kneal, Nick Witter, Mark
Brochertson and 7 others like this.

Top Comments



C David Brown Too many Democrats have sold their
birthright to their party. Too many Republicans can't
think beyond the next election, and they've sold their
souls to the party. We need men with the integrity to
stand for right against wrong regardless of whose idea it
was. Are you this man? We'll see.

8 · October 14, 2013 at 4:14pm

4 Replies



Angela Lynn Haskins William I'm curious if you might
consider joining forces with Gary Johnson? His terms as
governor of New Mexico were remarkable, and yet I
believe he needs foreign policy and military input that
you could provide. His staunch advocacy of small
government and personal responsibility could fit nicely
with your own.

October 16, 2013 at 8:49pm

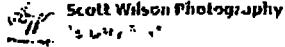


Bernthea Spertelle Regardless of your party affiliation,
my number one concern is that elected officials (at all
levels) are ignoring the constitution and dissolving the
constitutional and God given rights.

1 · October 15, 2013 at 10:43am



Mary Josephine Fowler Ever heard of George
Brett?...3rd baseman for the Kansas City



Zinke Family! (10 photos)

I've been taking some campaign photos for Ryan Zinke, a local Montana running for congress. He's a 21 year veteran of the Navy. Sea's and Seal Team 6 and he retired with the rank of commander. He was also a Montana state senator. His family lives in Montana and they wanted to get photos of them all together. The Zinke family has continued the military tradition, and his daughter Jennifer was in the Navy and his son-in-law Jack is a current Navy Seal. We had a such a great time. It was a lot of laughs and they are such a fun, down to earth family. It was a VERY snappy shoot at points outside. But the kids don't seem to mind at all. He had to get to take some shots of Ryan with his lovely wife Lela. They are such a cool couple!



We Comment Share